

PLANNING BOARD MINUTES
MARCH 9, 2015

Call The Meeting to Order

Chairman David Plunkett called the meeting to order at 7:00 P.M. in the Town Hall Auditorium. Present at the meeting were, Stephen Johnson, Robert Fowler, Nancy Reed, Vincent Fratalia, Director of Community Development Steve Sadwick and Recording Secretary Dawn Cathcart.

Mr. Plunkett announced that Agenda Items C & F have requested continuances.

(A) Approval of Minutes – February 11, 2015

MOTION - Mr. Fratalia made a motion to approve the Planning Board minutes of February 11, 2015 as submitted. The motion was seconded by Mr. Johnson and unanimously voted 5-0.

(B) Committee Reports/Administrative Actions

(B1) Zoning Bylaw Subcommittee

Mr. Sadwick stated that the public hearing for the zoning articles for Town Meeting will be held on April 6, 2015.

(B2) Master Plan

Mr. Sadwick stated that he spoke with Judy Barrett. He should be getting the introduction, public input, existing conditions and traffic by tomorrow. He will forward it to the Board as soon as he gets it.

Mr. Fratalia asked when the Master Plan is supposed to be done. Mr. Sadwick stated that the beginning piece is draft is due by March 31st.

(B3) Committee Reports

There were no committee reports

(C) 25 Highland Avenue (aka 464-468 Woburn Street) Modification to Special Permit (SP 2005-13)

MOTION - Mr. Johnson made a motion to waive the reading of the public hearing notice. The motion was seconded by Mrs. Reed and unanimously voted 5-0.

Attorney James Cutelis, a Special Municipal Employee and Robert DiStefano appeared for the modification request at 25 Highland Ave. Attorney Cutelis stated that this site has over five acres and is zoned Heavy Industrial. A special was issued in 2005 and they have substantially completed the list of special permit conditions. The screening has been installed and a significant amount of the debris has been removed. The landscaping and grading around sewer outlets will be done in the spring. The Fire Lane was installed and it was inspected by Deputy Vasas and they will be installing the “No Parking” signs shortly. They have contacted the DPW to request fabrication and installation of the signs. Attorney Cutelis stated that they are requesting a modification of two of the special permit conditions. The first is from Special Condition #16. They would like to pay a fee in lieu of instead of installing the sidewalk along Highland Ave. There is a not a lot of foot traffic on Highland Ave, so the fee can go towards sidewalks in another part of town. The second is from Special Condition #13. They would like clarification on how many storage containers can remain on site.

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Mr. Fowler stated that he went out to the site today. The owners would need to do due diligence to make sure people did not park on the street. Today there were trucks and cars parked half way on the soft shoulder and half way in the road. He would not be comfortable with removing the sidewalk. Mr. Fowler stated that he has no problem with having multiple unregistered vehicles as long as they are kept out back. He is also agreeable to the dumpster as long as it is on a pad. The whole yard is fenced, so he doesn't believe it would need to be screened twice. The area has been cleaned up but they are still parking on Highland Ave. There were also some heavy industrial vehicles parked right in the front. Attorney Cutelis stated that they have requested that the DPW install four "No Parking" signs along Highland Ave. Attorney Cutelis stated that he believes that the issue with unregistered vehicles should be addressed by the Zoning Board of Appeals. Attorney Cutelis added that they could send a notice to the tenants not to park in front.

Mrs. Reed stated that this was originally approved back in 2005 and not much was done until a violation was sent. The purpose of having the sidewalks was to prevent parking and provide pedestrian access and the purpose of the landscape area was to shield the property from the abutters. There is no fence on Woburn Street. Mr. DiStefano stated that there is a fenced gate, but it is not down the length of Woburn Street towards Billerica. Mrs. Reed stated that there has not been a good faith effort to clean up the site since this was approved in 2005, until a few months ago. This Board approved the SP on the word that this site would be cleaned up. That was ten years ago. The storage containers are prohibited in the Zoning Bylaw. There is also a letter from the Board of Health defining this area as a junk yard. Action is needed on this site quickly.

Mr. Plunkett stated that Special Condition #13 states that the contents of the storage boxes must be given to the Fire Department, but it doesn't say you can keep them. Mr. Plunkett asked how many containers have been removed. Mr. DiStefano replied about six have been removed. Mr. Plunkett stated that all of them may have to be.

Mr. Johnson stated that he hesitates to grant anything additional for this site because we couldn't even get a response to our letter regarding the violation. This Board is still chasing issues from 2005 that have not been done and now you are requesting something new. Attorney Cutelis stated that they have done a bunch of things in the last three months to come into compliance. Mr. Johnson stated that his biggest concern is the process, and if the past is an indication, what results are we going to get.

Mr. Fratalia asked if the Board of Health issue has been addressed. Attorney Cutelis stated that he hasn't seen the letter but it is not in their best interest to have any environmental issues. Mr. Fratalia stated that the sidewalks should be installed. Mr. Fratalia stated that he can't believe that it has been ten years since the approval and nothing has been done.

Mr. Plunkett stated that the modification request is for two issues; the sidewalk and storage containers. The sidewalks were required for pedestrian access but primarily as a method of preventing on-street parking. The containers are not permitted under the Zoning Bylaw. They were allowed for temporary use while the site was being cleaned up and they should be removed.

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Linda Blanco of 51 Highland Ave – Ms. Blanco stated that the original permit was a long process and most of the neighbors that were involved have moved. She remembers the fire that occurred and she does not want the containers to be kept on site. Ms. Blanco stated that Special Condition #17 should have been easily done. They have always parked on the street and there has been a brown unregistered SUV that has been parked on the street during the snow storms. Special Condition #8 has the hours of operation but they are operating at 6:00 AM on Saturday and there was a person living in one of the garages at one point. The plantings they have are not sufficient for screening and there are mounds of dirt not trees. Their property values are going down.

Attorney Cutelis stated that the one-way entrance has been posted. The hours of operation notice will be sent to tenants. Mr. DiStefano stated that if anyone is living there, he would like to be notified so he can handle it.

Mr. Fratalia asked Ms. Blanco if the sidewalk would be used. Ms. Blanco replied yes, there are a lot of people that walk and it would help prevent parking in the street. Ms. Blanco stated that ten years is a long time to wait.

Attorney Cutelis stated that they are planning to install the four “No Parking” signs, we can’t tow cars but the Police can issue tickets. Mr. Plunkett stated that during the site walk there were cars parking on the soft shoulder and a sidewalk would prevent that.

MOTION - Mr. Johnson made a motion to close the public hearing. The motion was seconded by Mr. Fratalia and unanimously voted 5-0.

Mr. Johnson stated that they could have an option to have the “No Parking” signs installed and see if it works, but he would also be ok for requiring the sidewalks. Mr. Plunkett stated that the Special Permit was issued and the sidewalks were required to address the problem of parking in the street and he is wondering why we would move away from the approved conditions. There was a lot of involvement from the neighbors. The “No Parking” signs are good, but the sidewalk is better. Mr. Plunkett stated that the storage boxes are prohibited according to the Zoning Bylaw.

MOTION - Mr. Johnson made a motion to deny the requested modification. The denial is based on the justification of the sidewalk for pedestrian access and to prevent parking on Highland Ave and the Tewksbury Zoning Bylaw prohibits storage boxes and all should be removed from the site. The motion was seconded by Mrs. Reed and unanimously voted 5-0.

(D) 743 Main Street, Tewksbury Village Condominiums, LLC Continued Site Plan Special Permit/Village Residential Overlay District (VCOD) Special Permit

Dick Cuoco, Jeff Rider, Robert Pondelli and Joseph Laliberte appeared for the continue Site Plan Special Permit/VCOD Special Permit at 743 Main Street. Mr. Cuoco stated that all previous comments have been addressed. They received comments today regarding insulation of the pipes and use of ductile iron. They agree to use ductile iron and during installation they will meet the sewer department on site to properly insulate the pipes. There was also a request to use granite curbing along Main Street. They agree to this subject to approval of Mass DOT.

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Mrs. Reed asked what will be the delivery hours. Mr. Cuoco stated that deliveries will only occur during the normal business hours. Mrs. Reed asked what the proposal is for snow storage. Mr. Cuoco stated that if they lose 10% - 15% of parking spaces due to snow, they will remove the snow from the site. This means that if two parking spaces are taken up due to snow; it will be removed off site. Mrs. Reed asked if the porous pavement issue has been worked out. Mr. Rider replied yes, they satisfied GCG. The only issue on their latest letter dated March 9, 2015 is the issue of the sewer line.

Mr. Fratalia asked if there have been any other comments from abutters. Mr. Cuoco replied no. Mr. Fratalia asked if the issue regarding the setback in the rear has been addressed. Mr. Cuoco replied yes, a waiver is not needed. They will only have to meet the 15' setback.

Mr. Fowler asked why the one-way entrance on Marshall Street is 22' wide. Mr. Rider replied that width was required to accommodate fire trucks.

Mr. Johnson stated that he was concerned with snow removal since there is no off street parking, but that has been addressed.

Mr. Plunkett asked if there was a standard provision for porous pavement. Mr. Rider stated that the Operational Manual will include maintenance and cleaning schedule for the porous pavement and this will be incorporated into the condo docs.

Paula Bowden of 36 Marshall Street – Ms. Bowden asked where the loading area is. Mr. Cuoco stated that there is no dedicated loading area; the units cannot be larger than 1,200 SF so they don't lend themselves to dry goods. The deliveries will be made by UPS, Staples, etc. The types of uses will be a hair salon or chiropractic office or similar use. Ms. Bowden asked how many units will there be. Mr. Cuoco replied he is not sure; they cannot be over 1,200 SF. Ms. Bowden asked if there will be roadwork done on Marshall Street. Mr. Cuoco stated that they will not have to dig up Marshall Street for the water line. The only work will be the sewer tie in and installation of sidewalks from Main Street to Jerome Road. Ms. Bowden stated that if Marshall Street is dug up, she requested that it be repaved.

MOTION - Mr. Johnson made a motion to close the public hearing. The motion was seconded by Mr. Fowler and unanimously voted 5-0.

MOTION - Mr. Johnson made a motion to approve the following requested waivers based on the memo from Cuoco and Cormier dated November 14, 2014 with the exception of the waiver for the rear setback because it was determined it was not needed. The waivers that are approved are: Section 5124, 5180, 5413, 5421, 5434, Storm water management and erosion control. The Board finds that approving these waivers are in conformance with the overlay district requirements. The motion was seconded by Mrs. Reed and unanimously voted 5-0.

MOTION - Mrs. Reed made a motion to approve the Site Plan Special Permit/Village Residential Overlay District Special Permit for 743 Main Street with the following conditions:

1. Incorporation of all approved waivers.
2. Maintenance and cleaning schedule of the porous pavement will be including in the Operations Manual and incorporated into the condo documents.
3. If snow storage requires a 10% loss of parking space, it must be removed from the site.

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4. Granite curbing will be installed along Main Street subject to approval from Mass DOT.
5. Ductile pipe will be used as requested by the DPW.
6. Insulation of the pipe will be done and verified by the DPW during installation of the pipe.
7. All deliveries will be done during normal business hours.
8. The revision date of the plan will be updated based on the condition of approval at this hearing.

The motion was seconded by Mr. Fowler and unanimously voted 5-0.

(E) 20 Carter Street, Carter Street Realty Trust for Carter Street Sports Center, Special Permit

Jay Ferrera and Mike Heffron appeared for the Special Permit for 20 Carter Street. Mr. Ferrera presented an updated site plan and second floor plan. The total occupancy of the restaurant will be 143 in total. On the first floor, there are three existing stairways up to the second floor and one elevator in the back. Mr. Ferrera stated that they are proposing to restripe the parking lot and add pedestrian walkway striping and building signage. Mr. Plunkett stated that the landscaping from the original Special Permit has not been done.

Mr. Johnson asked if the buses can make the turn if the parking lot is full. Mr. Ferrera replied probably not, the turns would need to be modified. Mr. Johnson asked how the overflow parking is designated. Mr. Ferrera replied that there will be signage inside the building and they will tell their home teams about the additional parking. Mr. Johnson stated that will not work since they will already be in the building. Mr. Johnson stated that we need to see an agreement that specifies when the overflow parking can be utilized. Mr. Heffron stated that we are a host facility for several teams and all employees will be instructed to park in the adjacent lot during game night. Mr. Johnson asked what the time frame is for striping the parking lot. Mr. Heffron replied in the spring. They are planning on adding solar panels and car ports. Mr. Johnson stated that there are remaining items from the original Special Permit that have not been done that need to be addressed. There is an expectation to finish the original Special Permit before a new one is issued. Mr. Johnson stated that one of the conditions was to give adequate ice time to the Tewksbury High School hockey team as well as the youth hockey program. The High School has been given the time, but he has been told that the youth hockey has not been. There are now about fifteen house teams. The pecking order should be house teams, TMHS, Tewksbury Youth hockey then everyone else. This needs to be considered every year when the time is being scheduled. The Tewksbury teams need to come before Andover and Austin Prep and other teams. Mr. Heffron stated that since he bought this property in 2010, the Tewksbury teams have had priority.

Mr. Fowler asked if the buses could drop the players off in the back. Mr. Heffron replied maybe, but it would be tight turning the corner and the back portion of the building is not occupied and is usually locked. Mr. Fowler stated that he likes the landscaping in the front and he suggested looking at using the snow storage as reserved parking. Mr. Ferrera replied that they would have to keep it as impervious.

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Mr. Fratalia also agreed that youth skating needs to be given the right amount of time. Mr. Fratalia asked if there were any permits issued yet. Mr. Ferrera replied no, the permits will not be issued until this process is complete. Mr. Fratalia asked if there was damage out back with the snow on the roof. Mr. Ferrera replied no. Mr. Fratalia stated that the parking lot is in serious need of repair. Mr. Fratalia stated that this past Sunday the parking lot was packed. Mr. Heffron stated that there was a tournament.

Mrs. Reed stated that she also agreed with the time for the youth skating. Mrs. Reed asked if the restaurant is there now. Mr. Ferrera replied it is still physically there now. Mr. Sadwick stated that it has not been in operation for more than six years. Mrs. Reed asked where the occupancy number of 143 came from. Mr. Ferrera stated that they mirrored the original special permit. Mrs. Reed stated that in 2008, the Special Permit issued was based on the existing uses as of the date of the permit. If there is an issue with the parking, then the Board reserved the right to have the applicant come back in. The number of parking spaces was not set. The existing condition and overflow parking are proposed but there is not enough information on the plan to approve. Some components that are missing are lighting, lease for off-site parking, sidewalk, etc. Mrs. Reed stated that she feels that more parking will be needed.

Mr. Fowler stated that Tewksbury has never had home ice. This is a restaurant not a bar and will be mainly used by the parents and families of players using the ice. Mr. Ferrera stated that they will probably only go for a beer and wine license.

Mr. Ferrera stated that the Special Permit in 2008 included the 143 occupancy load of this space. On game day, the overflow parking will be offered by the neighboring parcel. They will instruct their employees to park there. Mr. Fowler asked if the buses could be directed to the overflow parking. Mr. Ferrera stated that they can look at that. Mr. Heffron stated that they are committed to TMHS and Tewksbury youth programs.

Mr. Plunkett stated that the Use Special Permit is for a restaurant use. The prior Special Permit had adequate parking but testimony provided indicates that there may not be adequate parking now. The restaurant has been dormant and has lost its protected right. Mr. Plunkett asked if the Fire Department has reviewed this new parking plan. Mr. Sadwick replied no. Mr. Plunkett stated that the Police and Fire Departments need to review this updated plan. Mr. Plunkett stated that the applicant needs to provide a detailed lease from the Teamsters that allow the overflow parking. It should include a time frame and be signed by someone in authority and/or a mortgagee approval. There should also be language that if the lease is not renewed, then the applicant would need to come back before this Board. There should also be a declaration from the applicant that the restaurant will be used to service existing occupants already onsite and there will be no general public advertisement. Mr. Plunkett stated that the parking calculation requirements should be done to today's standards based on the Zoning Bylaw.

David Hughes from Breakaway Ice – Mr. Hughes stated that he has met with Mr. Sadwick and the Town Manager a few years ago regarding the lack of time for Tewksbury teams. This has been addressed and they will continue to offer the required ice time for both the high school and youth programs.

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MOTION - Mr. Fratalia made a motion to continue the Special Permit for 20 Carter Street until March 23, 2015 at 7:10 PM. The motion was seconded by Mr. Johnson and unanimously voted 5-0.

(F) 1390 and 1394 Main Street, Sullivan Family Trust, John Sullivan, Site Plan and Site Plan Special Permit

Mr. Plunkett stepped down from this hearing and Mr. Johnson became Chairman.

Doug Lees, Ryan Sullivan, and Ron Mueller appeared for the continued Site Plan Special Permit at 1390 and 1394 Main Street. Mr. Lees stated that Mr. Mueller has done the traffic study for this project. Mr. Mueller stated that this project is slightly different. It was originally proposed as a 6,000 SF building, now it is 5,400 SF. There are now four apartments on top. This is very similar to the project proposed by Mr. Ginsburg at 1438 Main Street. The driveway rating will be a Level B-C and Colonial Drive operates as a B-C level. There will be a 2-3 second delay. Mr. Mueller stated that the site distance is adequate but he does recommend removing the two large trees from the front and that no additional plantings be done. He also recommends a 5' sidewalk be installed with wheelchair ramps and cross walks. Mr. Mueller stated that a Mass DOT access permit will be required.

Mr. Fratalia stated that he read the report and he finds it hard to believe that traffic is down on Rt. 38.

Mr. Lees stated that they have updated the plans to include the traffic information as well as adding a loading area for small trucks. Mr. Lees stated that the residential units in the back will have addresses of Elaina Way. The plans have been submitted to the Town Engineer. Mr. Sadwick stated that the plans were received on Friday and they will expect the review letter sometime this week.

MOTION - Mrs. Reed made a motion to continue the Site Plan Special Permit and Village Overlay Special Permit until March 23, 2015 at 7:20 PM. The motion was seconded by Mr. Fratalia and unanimously voted 4-0.

(G) 155 East Street, James Andella Conceptual Discussion

Mr. Plunkett returned to the hearing and returned as Chairman.

Dick Cuoco and James Andella appeared for discussions on 155 East Street. Mr. Cuoco stated that Mr. Andella would like to bid on the Pike House and move it to this location. Mr. Sadwick stated that he does not have an answer to this question. The Town will be meeting with the owner to discuss the options. Mr. Cuoco stated that the Pike House will fit with the character of the houses in this area. Mr. Cuoco presented a plan showing a mixed commercial and residential project and questioned, if the Board would be acceptable with reducing the 50' setback to 42' and 45' from the residential uses.

Mr. Fratalia asked if the proposed town houses would be one or two bedrooms. Mr. Cuoco replied two bedrooms. Mr. Fratalia stated that he would not have a problem with the setback reduction.

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Mr. Johnson stated that the architectural is similar to other homes in the area and he likes the concept.

Mr. Fowler agreed and also likes the concept.

Mrs. Reed stated that she cannot support changing the zoning in this area because there were residents that were vocal in their opposition. Mr. Cuoco replied that Mr. Andella has bought the house from the person who was most vocal.

Mr. Plunkett asked that they look at breaking up the line of townhouses.

Old Business

There was no old business.

New Business

There is no new business.

Director's Report

Mr. Sadwick stated that he handed out the timeline for the 1 Radcliff Road permit. It looks like a long time, but it took the applicant and the Conservation Commission a long time to determine what a wetland was.

Adjournment

MOTION - Mr. Johnson made a motion to adjourn the meeting at 9:52 PM. The motion was seconded by Mr. Fowler and unanimously voted 5-0.

Approved on: _____